# STANDARD OIL ORDERED TO DISSOLVE

## COURT HOLDS COMPANY IS ILLEGAL COMBINATION

### Decision Sweeping Victory for Government; Will at Once be Appealed Direct to Supreme Court of United States.

[By Morning Journal Special Leased Wire]

St. Paul, Minn., Nov. 20.—In an opinion written by Judge Walter H. Sanborn of St. Paul, and concurred in by Judges Vandeventer, Hook and Adams, with a special concurring opinion by Judge Hook, the United States circuit court for the eastern district of Missouri today handed down an opinion declaring that the Standard Oil company of New Jersey was an illegal combination operating in restraint of trade, and ordered its dissolution.

In this decision the government of the United States wins a sweeping victory and, according to Frank B. Kellogg, of this city, who was the special prosecutor, the government has won every point for which it contended.

The decree filed by Judge Sanborn is comprehensive and enjoins the Standard company, its directors, officers, agents, servants and employes from voting any of the stock in any of the subsidiary companies and from exercising or attempting to exercise any control, direction, supervision or influence over the accounts of these subsidiary companies by virtue of its holding of their stock.

The subsidiary companies, their officers, directors, agents, servants and employes are enjoined from declaring or paying any dividends to the Standard company on account of any of the stock of the subsidiary companies held by the Standard company, and from permitting the latter company to vote any stock in or to direct the policy of the subsidiary companies, or to exercise any control whatsoever over the corporate accounts of any of the subsidiary companies by virtue of such stock, or by virtue of the power over the subsidiary corporations acquired by means of the illegal combination by the use of liquidation certificates.

The case will be appealed direct to the United States supreme court, as the judges who signed today's decree are, in effect, the judges of the United States circuit court of appeals, although they were sitting for the purpose of trying this case as the circuit court for the eastern district of Missouri.

The decree of the court dissolving the Standard Oil trust becomes effective in thirty days, when no doubt a stay will be granted for the purpose of an appeal.

When the decree takes effect, unless a stay is granted, an injunction will be issued restraining the Standard Oil company from a further continuance of its business under its present formation.

It appears from the concurring opinion written by Judge Hook that the company cannot do business under any other form with the object of stifling competition, for he says on this subject that it is thought that with the end of the combination the monopoly will naurally disappear, but should it not do so, and the members of the combination retire from it, except one who might perpetuate the monopoly by the aggregation of the physical properties and instrumentalities, it would constitute a violation of the decree of the court.

In the trial of the case the point was made that the Standard Oil company was a beneficent corporation in that it, by reason of economy in operation, reduced the price of its product. This, Judge Hook says, can have no weight.

The suit was begun by direction of the federal attorney general in St. Louis, November 15, 1906. Frank B. Kellogg of St. Paul was appointed special prosecutor, assisted by Charles B. Morrison of Chicago. Frank H. Poole and J. H. Graves of the department of justice; W. H. Higgins of Minneapolis and C. A. Severance of St. Paul.

The Standard Oil company presented a formidable array of legal talent led by John G. Milburn of New York. Their defense was that the present organization of the Standard Oil corporation was the result of the natural growth of a great industry and that no state law had been violated.

The acts of the defendants prior to July 2, 1890, did not violate the anti-trust act because it was not then in existence. Whether or not their transactions constituted a violation of the common law is a questiin much discussed and which it is unnecessary to determine in this case. However, that may be the acts of the defendants and the effect if their transactions in the conduct of the oil trade prior to July 2, 1890, which, if done thereafter would have constituted a violation of the law of that date, are competent and material evidence of the dominant purpose and the probable effect of their similar transactions in that business since that date and for that purpose they may be considered.

"Leaving out of view the acts of the defendants prior to July 2, 1890, except as evidence of their purpose, of their continuing conduct and its effect, do the stockholding trust of 1899 and its continuing operation, constitute an illegal restraint of interstate or internatiinal commerce in violation of the anti-trust act of 1890?

"The purpose of this statute was to keep the rates of transportation and the prices of articles in interstate and international commerce open to free competition. Any combination of two or more parties whereby the control of such rates or prices is taken from separate competitors in that trade and vested in a person, or association of persons necessarily restricts competition and restrains that commerce."

The court here cites a long list of decisions bearing on the formation or maintenance by competing corporation of an association to determine their rates of transportation, it continues:

"In the construction and enforcement of this statute corporations are persons. By the trust of 1899 more than thirty corporations were combined with the principal company and that corporation was given the power to fix the rates of transportation and the purchase and selling prices which all these companies should pay and receive for petroleum and products throughout the republic and in traffic with foreign nations.

"The principal company and many subsidiary corporations were then and still are engaged in interstate and international commerce; many of them were capable of competing with each other in that trade and would have been actively competitive if they had been owned by different individuals or groups of individuals.

"Thus the principal company in 1899 owned and operated several refineries in New Jersey, West Virginia and Maryland, which in the year 1906 had a capacity of 19,854,000 barrels of crude oil yearly. The Standard Oil company of New York, one of the subsidiary companies, owned and operated several refineries in the state of New York which in the year 1906 had a capacity of 6,732,060 barrels annually.

"In the Northern Securities case, Hill and Morgan and their associates acquired control of a majority of the voting stock of two competitive railroad companies, and by means of that ownership the power to prevent them from actually competing. This group of stockholders subsequently transferred their controlling interest in the stock of each of these companies to the Northern Securities company in exchange for its stock and the supreme court decided that this transaction constituted a combination in restraint of commerce among the states and affirmed a decrec of this court which enjoined the continuance of its operation.

"The defendants and their associates acquired the control of a majority of the stock of more than thirty corporations, many of which were potentially and naturally competitive, prevented the competition by means of this ownership and then, by the transfer of the stock of nineteen of them to the principal company, the control and management of all of them. If it was a violation of the anti-trust act to combine the control of two competitive corporations in a third, as in the case of the Northern Securities company, why was it not as much a violation of it to combine the control of ten or twenty or thirty of the corporation in one of the number as in the case in hand?

"The defendants answer (1), because these corporations were not competitors and had not been since 1879; (2), because the stockholders of the principal company were the joint owners of the stock of the subsidiary companies and had the right to convey their stock in the latter to the former in trust for themselves and congress was without power to restrict their acquisition, their method of holding or their disposition of their title to their property or their use of it; (3), because the corporations whose stock was vested in a holding company in the Northern Securities company's case were railway companies which were charged with the discharge of public duties, the performance of which was peculiarly subject to regulation by the nation and state, while the corporations whose stock was vested in the Standard Oil company were private corporations, and, (4), because if any restraint of trade resulted from the trust of 1899 it was neither direct, immediate nor substantial."

The court here finds against the defendants on all these propositions, continuing the opinion says:

"The contention that congress has no power to restrict acquisition, method of holding title, disposition and use of property was forcibly urged upon the attention of the courts many times in the case of the Northern Securities company, but the answer to it was, as it must be here, that no question of the mere acquisition or method of holding or of disposition of title to property was there, or is here, in issue, that the question there was, as it is here, whether a certain method of holding stocks which control several corporations may be used to prevent competition between them in interstate and international trade. And congress has plenary and indisputable power under the commercial clause of the constitution to restrict and regulate the use of every instrumentality employed in interstate or international commerce so far as it may be necessary to do so in order to prevent the restraint thereof denounced by the anti-trust act of 1890.

"The power of congress to regulate interstate and foreign commerce and the exertion of that power manifested in the anti-trust act embrace all persons and corporations engaged in commerce. The mischief against which that law was levelled is not less threatening from a vast combination of private corporations owning and using in interstate and foreign commerce property worth hundreds of millions of dollars, than from a combination of two railway companies. The act makes no distinction between them. It excepts neither class and where congress has made no exception it is not the province of the courts to do so.

"The purpose of the act of July 2, 1890, was to prevent the stifling and the substantial restriction of competition in the interstate and international commerce. The test under that act of the legality of a combination or conspiracy is its direct and necessary effect on such competition. If its necessary effect is but incidentally or indirectly to restrict competition while its chief result is to foster the trade and increase the business of those who make and operate it, it is not violative of this law.

"But if its necessary effect is to stifle or directly and substantially to restrict free competition in commerce among the states or with foreign nations, it is a combination or conspiracy in restraint of that trade and it falls under the ban of the act.

"And the power to restrict competition in interstate and international commerce vested in a person or association of persons by a contract or combination is indicative of its character, for it is to the interests of the parties that such a power should be exercised and the presumption is that it will be. In the case under consideration it has been exercised and thereby the principal company has prevented competition between the corporations it controls since 1899.

"In the case under consideration the combination and conspiracy in restraint of trade and its contiued execution, which has been found to exist, constitute illegal means by which the conspiring defendants combined and still combine and conspire to monopolize a part of interstate and international commerce and by which they have secured an unlawful monopoly of a substaintial part and this conspiracy constitutes a clear and complete violation of the second as of the first section of the act.

"Upon the ground that the defendants have thus violated and are violating the second section of the act as fully as upon the ground that they have violated its first section, the decree in favor of the government must be and is based."

### LAWYER RECKONS TRUST WILL STILL SELL OIL

Philadelphia, Nov. 20.—"I never know what I am going to do until my clients consult me," said John G. Johnson, of this city, when told of the decision of the Standard Oil case and asked what steps would be taken to stay the order of dissolution. When asked the importance of the decision Mr. Johnson replied:

"I guess the government thinks it important."

"How about the Standard Oil company?" he was asked.

"Well, I reckon the Standard Oil company will continue to sell oil."

## WILL FIGHT CASE TO THE ULTIMATE LIMIT DECLARES R. G. MULLEN

### Alamogordo Man Convicted of Getting Money Under False Pretenses Says He Is Victim of Persecution.

[Special Dispatch to the Morning Journal]

El Paso, Texas, Nov. 20.—R. G. Mullen, formerly of Alamogordo, and who was recently convicted by a jury in Corydon, Iowa, for obtaining money under false pretenses, in connection with New Mexico land operations, has arrived in El Paso to make his home here. Mullen declares he is the victim of persecution and will fight his conviction to the last resort. Sentenced to serve three years in jail at Corydon, he has appealed his case to the supreme court.

In discussing the case Mullen said: "About a year ago Dr. W. L. Bullis and A. G. Widme instituted a suit against me and my associates to force us to surrender our interest in the Sacramento Irrigation company which controls nearly all the waters of the Sacramento river in Otero county, New Mexico.

"They used the criminal, state and federal courts to try to persecute us and force a compromise, I being one of the largest stockholders in the company. They used their political influence to have me indicted in Iowa on a charge of obtaining money under false pretenses in connection with the sale of stock in the irrigation company, asserting that the indebtedness of the company was greater than the value of the stock which I endeavored to sell.

**Indictments in Missouri.**

"Then they went to Missouri and there had the federal grand jury indict O. M. Lee, H. W. Majors, C. A. Thompson, R. R. Wade, M. A. Gleason and myself on a charge of attempting to defraud the government in alleged land frauds.

"If there was any crime of this nature committed it must have been committed by them because they testified before the governor of New Mexico that they were not residents of New Mexico and swore to the same thing a second time, but in taking up land they swore, as required by the land office, that they were residents of the territory.

"The fight is between Dr. Bullis and Messrs Jackley and Wagner against Messrs. Lee, Ward, myself and Wolcott, the latter being interested in the power company at Alamogordo but not in the irrigaiton company.

"I know nothing of any counter suits that it is alleged will be instituted by me and my associates at Alamogordo, for I know of no counter suits we could file.

"My associates and myself intend to fight this matter to the end and to secure our rights and we do not propose that they shall by any assistance that they may secure from the government or the state force us to surrender."

# CHINAMAN FOUND GUILTY OF EFFORT AT BRIBERY

## DAWSON CELESTIAL CONVICTED IN LAS VEGAS

### Takes Jury Six Hours to Find Verdict; Judge Mills Adjourns United States Court Till After Christmas.

[Special Dispatch to the Morning Journal]

Las Vegas, N. M., Nov. 20.—After being out six hours during which the numerous ballot were taken, the jury in the case of the United States versus Hon Kin alias Hom Lee, the Dawson Chinese charged with atempting to bribe Frank Stanley, United States Immigration inspector, in connection with two recent Chinese smuggling cases unearthed at this coal camp returned a verdict today in the federal district court finding the Chinaman guilty as charged in the indictment. Attorney N. B. Bunker, counsel for defendant, filed a motion for a new trial. Arguments on this motion will be heard December 28. In the meantime Hom Kin may enjoy liberty on a bond of $1,000, which the local Chinamen are endeavoring to arrange to secure the prisoner's release from the county jail, where he has been confined since arrested and brought to this city for trial. The case has attracted considerable interest and has been hard fought by the Chinaman and his attorney. United States Attorney D. J. Leahy, and his assistant, Herbert W. Clark, made convincing arguments to the jury showing the guilt of Hom Kin without doubt. Frank M. Stanley, immigration inspector, was the chief witness for the prosecution.

Following the announcement of the verdict in this case, Chief Justice W. J. Mills adjourned the United States court here until December 28, at which time arguments on the motion for a new trail in the Hom Kin case as well as the case of George Snell, convicted of subornation of perjury, will be heard.

# WIFE OF PROMOTER SAYS HE'S ALIVE

## Mrs. Ross Wants to Get Pecuniary Assistance from Brazito Man's Housekeeper Now in This City.

Alleging that her husband, W. A. Ross, promoter of the Brazito townsite swindle, did not commit suicide in New York as reported, but is alive and has deserted her, Mrs. Ross, who is now living in Chicago with her two children has written a letter to the local police department asking assistance in securing from a woman in this city money with which to feed and clothe her children. This woman was located by the police on the Highlands. She is, or was housekeeper for Ross when he was at Brazito near Las Cruces, where, as exclusively published in the Morning Journal at the time of the crash, Ross sold town lots to many victims when he had no title to the property. Mrs. Ross in her letter alleges Ross spent money lavishly on this woman and deserted the writer for her.

There is no other evidence to support this assertion and the woman's name is consequently not made public. Mrs. Ross in her letter alleges that the man who suicided in New York was Francis A. Ross and not her husband. The report from New York stated that the dead man was "Ross, the Brazito man" and there is yet some doubt in the minds of the authorities whether or not W. A. Ross is really alive.

## SOUTHWEST NEWS NOTES

A. F. Kerr has been succeeded as president of the Sierra county bank at Hillsboro by G. P. McCorkle of Center Point, Texas. This change is made because the increasing business of the bank makes it imperative that the president devote all his time to its affairs and Mr. Kerr has about all the business he can attend to as cashier of the American National bank of Silver City. W. T. Cason succeeds R. M. Turner of Silver City as cashier of the Sierra bank.

W. A. Tenney, the Silver City "freighter king" had the misfortune to dump an immense freight wagon full of flour over an embankment into a lot of slimes from a Leopold concentrator. Tenney is qualified to confirm the rumor that flour has taken a drop.

The pretty little white bungalow cottage occupied by Dr. Charles Turner Sands, first assistant physician and pathologist of the New Mexico cottage sanatorium, at Silver City, was burned to the ground early Friday evening.

An insane man was found wandering over the hills near Penzance, Arizona last week, and was in a horrible condition, both mentally and physically. County Physician Sampson was up from Winslow to attend the man and with the assistance of Dr. Brown pronounced the man insane and he was therefore committed to the asylum at Phoenix, by Judge Smith.